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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,766	10/19/2004	Peter Clive Bridges	04-870	6029
20306 7590 01/18/2008 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606			EXAMINER ALI, SHUMAYA B	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 01/18/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,766

Applicant(s)

BRIDGES ET AL.

Examiner

Shumaya B. Ali

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Application Status

This office action is in response to the remarks filed on 11/12/07. Currently claims 1-7 are pending in the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quilter et al. US 2,861,568 in view of Tischer et al. US 6,328,031 B1.

As to claim 1, Quilter in his specification and drawings discloses a respirator assembly comprising: a first sub-assembly (15) adapted to be worn on the head (see fig.2) and including a

seal (13) adapted to seal against the periphery of the user's face when worn (see col.2, lines 26-36).

Quilter further discloses a second sub-assembly (fig.7, 26, 64), however lacks the second sub-assembly (fig.7, 26, 64) separable from the first sub-assembly but selectively co-operable therewith. However, Tischer in a protective head gear teaches a first subassembly (fig.13, 113) and a second subassembly (fig.13, 112) that are detachably connected to each other (see col.6, lines 10-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Quilter in order to make the subassemblies separable for the purposes of preventing direct exposure of wearer's head to high heat environment as taught by Tischer (see col.2, lines 35-40).

Quilter additionally discloses the second sub-assembly comprising a face piece adapted to co-operate with the first sub-assembly to define therewith a facial cavity (space between the seal 13 and the mask 64, see fig.7, see also "dead space" in col.6, lines 3-6, which reads on "facial cavity") bounded by said seal (see fig.9), an inlet (68) connectable to a source of breathing gas for supply to the user and an outlet (67) for the exhaustion of exhaled gas from the user.

As to claim 2, Tischer in figure 13 shows that the first and second sub-assemblies can be completely separable, thus allowing the first sub-assembly to be worn alone. Tischer in figure 12 shows the second sub-assembly being demountably attachable to the first sub-assembly.

As to claim 3, Quilter discloses the first sub-assembly comprises headgear (15) including a substantially rigid ring (25) structure adapted to be juxtaposed to the user's face (see fig.9) when the headgear is donned and from which said seal extends to engage around the periphery of

the user's face (see fig.97), the second sub-assembly being configured to be mounted to said ring structure (see fig.7, 26 connecting 25). Quilter however lacks at least one releasable fastener.

However, Tischer teaches a face (fig.3, 58) and hood (fig.3, 30) assembly that can be joined by a releasable fastener (fig.3, 62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Quilter in order to add a releasable fastener for the purposes of allowing separable connection between the two sub-assemblies as taught by Tischer.

As to claim 4, Quilter discloses the second sub-assembly is articulated to the first sub-assembly (see fig.9).

As to claim 5, Quilter discloses the first sub-assembly comprises headgear in the form of a flexible hood of air-permeable material (hood 1 is constructed from "other fabric", see col.2, lines 35-37, and "other fabric" broadly reads on breathable/air-permeable fabric).

As to claim 6, Quilter discloses the second sub-assembly includes an oronasal mask (64) to be disposed within said facial cavity.

As to claim 7, Quilter discloses said face piece includes a lens portion (26), Quilter however lacks "demountable" lens. However, Tischer teaches detachable face-piece as applied for claim 1. Tischer teaches the face-piece (112) has a clear plastic face plate (114) (see col.6 lines 20 and 21). Tischer's face plate is equivalent to a lens portion since the clear plastic construction of the face plate (114) would inherently allow wearer to see though the face plate (114). Thus, Tischer further teaches demountable lens.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art made of record not relied upon cited in the PTO form 892 pertain to mask face-piece sealing structure.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-W-F 8:30am-5:00 pm.

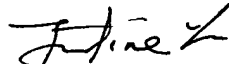
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Shumaya B. Ali
Examiner
Art Unit 3771



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